IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 1633 of 2004

BANSHIMAL
V/S
BANWARI LAL & ORS

Mr. VIJAY AGGARWAL, for the appellant / petitioner

Date of Order : 3.3.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

By the impugned Judgment, the learned court below has dismissed the application filed under O.40 R.1 CPC for appointment of Receiver on the property in question, prima facie, holding that property is in possession of the plaintiff Banwari lal, which property cannot be said to be likely to suffer any loss which may require appointment of Receiver. That apart, it is significant to note that in para no.13 of the Judgment, while deciding the plaintiff's application under Sec.39 R.1 & 2 CPC, a condition has been imposed on the plaintiff that on furnishing an undertaking and security, in the amount specified therein, for compensating the defendants in the event of failure of the plaintiff, and the court directing any compensation to be paid to the defendants.

In these circumstances, I do not find any error in the impugned requiring any interference in appeal. The appeal is, therefore, dismissed summarily. However, in the circumstances of the case, learned trial court is directed to decide the suit most expeditiously.

(N P GUPTA),J.

/Srawat/